

Remarks

The Office Action mailed April 11, 2005 and the Advisory Action mailed June 29, 2005 have been carefully reviewed and the foregoing amendment has been made as a consequence thereof.

Claims 1, 3-18, and 20-21 are now pending in this application. Claims 1 and 3-11 stand rejected. Claims 12-18 and 20-21 are allowed. Claims 2 and 19 have been canceled.

In accordance with 37 C.F.R. 1.136(a), a one-month extension of time is submitted herewith to extend the due date of the response to the Office Action dated April 11, 2005 for the above-identified patent application from July 11, 2005 through and including August 11, 2005. In accordance with 37 C.F.R. 1.17(a)(1), authorization to charge a deposit account in the amount of \$120.00 to cover this extension of time request also is submitted herewith.

The rejection of Claims 1, 3-7 and 9-11 under 35 U.S.C. § 102(b) as being anticipated by Falk (U.S. Pat. No. 4,735,470) is respectfully traversed.

Falk describes a combination slidable storage assembly (30) disposed beneath at least one shelf assembly (20). Each shelf includes cantilevered support brackets (22). A pair of transverse bars (36) are affixed at each end to a corresponding portion of the support brackets. A groove (44) extends along a runner (42) and a front end of the groove includes an integral vertical projection (45). The projection engages with stop members (51) on flanges (49). Notably, Falk does not describe nor suggest a horizontal aperture extending through either of the lower or upper portions of the ledge.

Claim 1 recites a system for limiting outward movement of a slide-out shelf, wherein the shelf includes at least one stop tab, the system including “a plurality of side supports configured to support the shelf, each said side support comprises a ledge comprising a clearance portion, the clearance portion comprising a horizontal aperture extending through said ledge such that said aperture comprises an aperture width less than a ledge width....”

Applicant traverses the assertion in the Office Action that Figure 4 illustrates a horizontal aperture formed between 1, 2, and 3 that extends **through** the ledge. Applicants agree that parts labeled 1 and 2 form a ledge, however, there is no aperture illustrated. Specifically, there is no break in the plane of the ledge, and it appears that nothing would be able to pass through the alleged aperture.

Falk does not describe nor suggest a system for limiting outward movement of a slide-out shelf as recited in Claim 1. Specifically, Falk does not describe nor suggest a side support including a ledge having a clearance portion which includes a horizontal aperture extending through said ledge such that said aperture comprises an aperture width less than a ledge width. Rather, in contrast to the present invention, Falk describes a ledge including a consistent width through the length of the groove in which a shelf slides. Notably, Falk does not describe nor suggest a horizontal aperture extending through either of the lower or upper portions of the ledge. Accordingly, for at least the reasons set forth above, Claim 1 is respectfully submitted to be patentable over Falk.

Claims 3-7 depend, directly or indirectly, from the independent Claim 1. When the recitations of Claims 3-7 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 3-7 likewise are patentable over Falk.

Claim 9 recites a method for assembling a shelf assembly including a shelf and at least one side support including “positioning at least one forward tab and at least one rear tab extending outwardly from the shelf...positioning a ledge including at least one side support whereby the ledge includes a clearance defined through the ledge and sized to receive the forward tab...positioning at least one gusset extending inwardly from each of the side supports, wherein the at least one gusset includes a gusset tab extending upwardly from the gusset...aligning the gusset tab substantially vertically below a corresponding side support clearance...positioning at least one support member configured to rigidly connect the side supports and configured to contact the forward tab when the shelf is in a first extended position...supporting the shelf on the side supports...and slidably coupling the shelf to the side supports.”

Falk does not describe nor suggest a method for assembling a shelf assembly as recited in Claim 9. More specifically, Falk does not describe nor suggest positioning a ledge including at least one side support whereby the ledge includes a clearance defined through the ledge and sized to receive the forward tab. Moreover, Falk does not describe nor suggest positioning at least one gusset extending inwardly from each of the side supports, wherein the at least one gusset includes a gusset tab extending upwardly from the gusset and aligning the gusset tab substantially vertically below a corresponding side support clearance. Rather, in contrast to the present invention, Falk merely describes a vertical projection protruding in a groove defined in each spaced bracket. Notably, Falk does not describe nor suggest each bracket having a clearance defined through either of the lower and upper portions defining the groove. Accordingly, for at least the reasons set forth above, Claim 9 is respectfully submitted to be patentable over Falk.

Claims 10-11 depend, directly or indirectly, from independent Claim 9. When the recitations of Claims 10-11 are considered in combination with the recitations of Claim 9, Applicant submits that dependent Claims 10-11 likewise are patentable over Falk.

For the reasons set forth above, Applicant respectfully requests that the Section 102 rejection of Claims 1, 3-7, and 9-11 be withdrawn.

The rejection of Claim 8 under 35 U.S.C. § 103 as being unpatentable over Falk (U.S. Pat. No. 4,735,470) in view of Kolbe et al. ("Kolbe") (U.S. Pat. No. 5,340,209) is respectfully traversed.

Falk is described above. Kolbe describes a slide assembly (20) that includes a shelf structure (27) mounted on a pair of supports (23 and 24) in a refrigerated compartment (14). The shelf structure includes a shelf plate (33) encapsulated by a rim (34). A unitary latch member (44) interacts with the support (23) and the rim to facilitate shelf operation. During extension of the shelf, the latch engages a slot (66) in flange (40) of the rim. Notably, Kolbe does not describe a plurality of gussets extending inwardly from each of the side supports,

and a gusset tab extending upwardly from each of the gussets and aligned substantially vertically below an aperture defined at a distal end of a side support.

Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Falk nor Kolbe considered alone or in combination, describe nor suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicant respectfully submits that it would not be obvious to one skilled in the art to combine Falk with Kolbe, because there is no motivation to combine the references suggested in the art. Additionally, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicant's own teaching. Rather, only the conclusory statement that "it would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized side supports shaped like the supports taught by Kolbe, on the invention taught by Falk, for the purpose of providing additional stability in the rear of the support" suggests combining the disclosures.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicant's disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is

impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Since there is no teaching nor suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant requests that the Section 103 rejection be withdrawn.

Further, and to the extent understood, neither Falk nor Kolbe, considered alone or in combination, describe or suggest the claimed combination, and as such, the presently pending claims are patentably distinguishable from the cited combination. Specifically, Claim 8 depends from independent Claim 1 which recites a system for limiting outward movement of a slide-out shelf, wherein the shelf includes at least one stop tab, the system including “a plurality of side supports configured to support the shelf, each said side support comprises a ledge comprising a clearance portion, the clearance portion comprising a horizontal aperture extending through said ledge such that said aperture comprises an aperture width less than a ledge width....”

Neither Falk nor Kolbe, considered alone or in combination, describe nor suggest a system for limiting outward movement of a slide-out shelf as recited in Claim 1. Specifically, neither Falk nor Kolbe, considered alone or in combination, describe nor suggest a side support including a ledge having a clearance portion which includes a horizontal aperture extending through said ledge such that the aperture includes an aperture width less than a ledge width. Rather, in contrast to the present invention, Falk describes a ledge including a consistent width through the length of the groove in which a shelf slides, and Kolbe merely describe a shelf structure including a shelf plate encapsulated by a rim, wherein a unitary latch member interacts with a support and the rim to facilitate shelf operation such that the latch engages a slot in the flange of the rim. Notably, neither Falk nor Kolbe, alone or in combination, describe nor suggest a horizontal aperture extending through

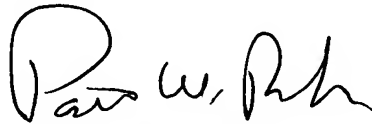
either of the lower or upper portions of the ledge. Accordingly, for at least the reasons set forth above, Claim 1 is respectfully submitted to be patentable over Falk in view of Kolbe

Claim 8 depends from independent Claim 1. When the recitations of Claim 8 are considered in combination with the recitations of Claim 1, Applicant submits that depend Claim 8 likewise is patentable over Falk in view of Kolbe.

For the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claim 8 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Patrick W. Rasche", written over a horizontal line.

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